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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,597	04/30/2001	Antoni P. Tomsia	IB-1627	3236

8076 7590 03/28/2006

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BERKELEY, CA 94720

EXAMINER

SPERTY, ARDEN B

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 03/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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20060201

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents**NOTICE OF NON-COMPLIANT BRIEF**

The Appeal Brief submitted 11/28/05 fails to rectify errors set forth in the Notice of Non-Compliant Appeal Brief mailed 7/18/05. Namely, the brief does not contain a concise statement of each ground of rejection, and the brief does not present an argument for each ground of rejection. The brief does not contain a concise statement of, or an argument for, the 35 USC 102(b) rejection of claims 1,3,5,8-12, and 20-28 as being anticipated by "Glass-hydroxyapatite coatings on titanium-based implants" by Gomez-Vega et al. The brief does not contain a concise statement of, or an argument for, the 35 USC 103(a) rejection of claim 30 as obvious in view of "Glass-hydroxyapatite coatings on titanium-based implants" by Gomez-Vega, further in view of "A multilayer approach to fabricate bioactive glass coatings on Ti alloys," also by Gomez-Vega.

Since Appellant has failed to rectify the deficiencies previously identified, the Appeal is hereby dismissed in accordance with the practice set forth in MPEP 1205.03. As there is no allowable claim present, nor any period for response remaining, the application is abandoned. Applicant is reminded of the procedures to revive an abandoned application set forth at 37 CFR 1.137.

TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

Communication Re: Appeal	Application No.	Applicant(s)	
	09/845,597	TOMSIA ET AL.	
	Examiner Arden Sperty	Art Unit 1771	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

1. ☐ The Notice of Appeal filed on _____ is not acceptable because:
 - (a) ☐ it was not timely filed.
 - (b) ☐ the statutory fee for filing the appeal was not submitted. See 37 CFR 41.20(b)(1).
 - (c) ☐ the appeal fee received on _____ was not timely filed.
 - (d) ☐ the submitted fee of \$_____ is insufficient. The appeal fee required by 37 CFR 41.20(b)(1) is \$_____.
 - (e) ☐ the appeal is not in compliance with 37 CFR 41.31(a)(1) in that no claim has been twice rejected.
 - (f) ☐ a Notice of Allowability, PTO-37, was mailed by the Office on _____.

2. ☐ The appeal brief filed on _____ is NOT acceptable for the reason(s) indicated below:
 - (a) ☐ the brief and/or brief fee is untimely. See 37 CFR 41.37(a).
 - (b) ☐ the statutory fee for filing the brief has not been submitted. See 37 CFR 41.20(b)(2).
 - (c) ☐ the submitted brief fee of \$_____ is insufficient. The brief fee required by 37 CFR 41.20(b)(2) is \$_____.

The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. See 37 CFR 41.37(a)(1). Extensions of time may be obtained under 37 CFR 1.136(a). See 37 CFR 41.37(e).

3. ☒ The appeal in this application is DISMISSED because:
 - (a) ☐ the statutory fee for filing the brief as required under 37 CFR 41.20(b)(2) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.
 - (b) ☐ the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.
 - (c) ☐ a Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on _____.
 - (d) ☒ other: see attached letter.

4. ☒ Because of the dismissal of the appeal, this application:
 - (a) ☒ is abandoned because there are no allowed claims.
 - (b) ☐ is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.
 - (c) ☐ is before the examiner for consideration.